

U.S. POSTAL SERVICE WHISTLEBLOWING

INTRODUCTION

U.S. Postal Service (USPS) employees [are not protected](#) under the [Whistleblower Protection Act](#)—the whistleblower law that protects most executive branch employees. Instead, USPS maintains a unique set of whistleblower policies.

UNIQUE USPS WHISTLEBLOWER POLICIES

USPS whistleblower policies are laid out largely in the agency's [Employee and Labor Relations Manual](#) (ELM), sections 666.18 and 666.3. The ELM is further interpreted and implemented through supplementary policies developed by the USPS Office of Inspector General (OIG) as well as by requirements under the Inspector General Act, as amended. The agency has also [discretionarily revised its policies](#) to mirror legislative reforms to, and court interpretations of, the Whistleblower Protection Act.

SCOPE OF PROTECTIONS

The ELM prohibits individuals from taking or threatening a personnel action against a USPS employee or applicant because of the employee or applicant's protected whistleblower disclosure or exercise of any appeal right (Sections 666.17-18).

A protected disclosure is one that the employee or applicant believes evidences:

- A violation of any law, rule, or regulation, or;
- A gross waste of funds, gross mismanagement, an abuse of authority, or a substantial and specific danger to public health or safety.

DISCLOSURES: PROTECTED AUDIENCES

The ELM does not mandate a specific audience for protected disclosures—in other words, disclosures that meet the criteria above will likely be protected if made internally to co-workers or supervisors, to Congress, to the OIG, or even publicly. However, the ELM specifies that disclosures of information **specifically prohibited by law** will only be protected if they are made to the USPS OIG.

Further, The ELM specifically states that **disclosures to the OIG are protected unless** “the complaint was made, or the information disclosed, with the knowledge that it was false or with willful disregard for its truth or falsity.”

Finally, note that the U.S. Office of Special Counsel [does not have jurisdiction](#) to oversee investigations into USPS employee or contractor whistleblower disclosures.

Note: For more information on the relationship between whistleblowers and inspectors general, including confidentiality considerations, see this related fact sheet on [Whistleblowers and Offices of Inspectors General](#).

RETALIATION: ENFORCEMENT OF RIGHTS

Section 666.3 of the ELM lays out the processes for a protected employee to enforce their rights through the USPS OIG. Note that the process can be initiated through the [OIG's complaint form](#). As USPS employees are carved out of the Whistleblower Protection Act, employees [cannot file a complaint](#) through the U.S. Office of Special Counsel to challenge retaliation.

Once a retaliation complaint is filed, the OIG will make an initial determination whether further investigation is warranted. If the OIG moves forward, it then has 120 days to investigate and either substantiate or not substantiate the retaliation complaint in an investigative report sent to USPS agency leadership.

SEEKING A STAY

The OIG may also recommend to USPS that the agency “stay” (i.e. pause) a pending personnel action during the OIG’s investigation. Per section 666.341 of the ELM, the agency must approve the OIG’s stay request within three business days “unless such a stay would be inappropriate.”

Where a stay is denied, or where it is issued but later terminated, the OIG can seek a 45-day stay from a **USPS administrative law judge (ALJ)**. The ALJ is required to issue the stay if they find reasonable grounds to believe that retaliation occurred.

DECISION AND APPEAL RIGHTS

Once the OIG’s report is finalized, the agency determines how to proceed—including whether to order relief for the whistleblower.

Under certain circumstances, non-bargaining unit employees can appeal an adverse decision from the agency in a hearing before a USPS Administrative Law Judge. For instance, ELM section 666.37 states that they may appeal an adverse decision on their retaliation claim if the USPS OIG has “found a *prima facie* case of reprisal for whistleblowing,” among other conditions.

If the judge finds for the whistleblower and orders corrective action, relief should make the whistleblower whole—meaning the judge will strive to order relief necessary to place the whistleblower back as if the retaliation had not happened at all.

However, the judge cannot order relief for the whistleblower if USPS successfully demonstrates that it would have taken the same personnel action regardless of the whistleblower’s disclosures—in other words, that the agency’s actions were legitimate and not connected to the whistleblowing.

If relief is denied, a second appeal is also possible before another USPS Administrative Law Judge. However, there will be no secondary hearing at that level, merely a decision to either remand the case to the first judge or not.

ALTERNATIVE OUTLETS TO SEEK RELIEF

Employees may seek relief through alternative channels depending on their employment status and the nature of their complaint. For example, ELM Section 666.23 allows certain employees to file an appeal with the Merit Systems Protection Board when they face a personnel action such as removal, reduction in pay, or suspensions for more than 14 days. See also ELM Sections 666.24-26.

ROLE OF POSTAL UNIONS

Many USPS employees may be members of [collective bargaining units](#). Unions may be poised to offer guidance on both making a whistleblower disclosure and/or a reprisal complaint to the USPS OIG. However, USPS OIG investigations are separate from union grievance procedures. Knowledgeable counsel may be able to offer guidance on exercising various options for relief. See also ELM section 666.24 on related grievance procedures.

OTHER RELEVANT FEDERAL LAWS

USPS employees and contractors [are covered](#) under the **Occupational Health and Safety Act’s** whistleblower provision (29 U.S.C. § 660(c)), which allows employees to challenge reprisal they face because of disclosures regarding workplace health and safety.

USPS Contractors are covered under unique statutory whistleblower protections that also require the whistleblower to seek enforcement of their rights through the USPS OIG (41 U.S.C. § 4712). For more information on contractor rights, see this related [Federal Contractor and Grantee Whistleblowing](#) fact sheet.

ADDITIONAL RESOURCES

[USPS OIG Whistleblower Retaliation FAQ](#)

[USPS OIG Whistleblower Disclosure Hotline and Guidance](#)